

THE HONORABLE JOHN H. CHUN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Case No. 2:22-cv-00269-JHC

AVELARDO RIVERA and YASMINE
ROMERO, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

AMAZON WEB SERVICES, INC.,

Defendant.

**STIPULATED MOTION TO FILE
UNDER SEAL DEPOSITION
TESTIMONY IN SUPPORT OF
PLAINTIFFS' MOTION TO COMPEL
RESPONSES TO FIRST SET OF
INTERROGATORIES AND REQUESTS
FOR PRODUCTION AND CERTAIN
RULE 30(B)(6) TESTIMONY**

NOTE ON MOTION CALENDAR:
July 24, 2023

Pursuant to the Court's Local Civil Rule 5(g), Plaintiffs Avelardo Rivera and Yasmine Romero ("Plaintiffs") respectfully submit this Stipulated Motion to File Under Seal Deposition Testimony In Support of Plaintiffs' Motion to Compel Responses to First Set of Interrogatories and Requests for Production and Certain 30(b)(6) Testimony ("Motion to Compel"). Plaintiffs' Motion to Compel contains portions of the rough deposition transcript of one of AWS's Rule 30(b)(6) witnesses, Sean Simmons, which Defendant Amazon Web Services, Inc. ("Defendant" or "AWS") has designated as Highly Confidential under the protective order entered in this case. The deposition transcript at issue is attached to Plaintiffs' Motion to Compel as Exhibit 13.

CERTIFICATION PURSUANT TO LOCAL RULE 5(g)(1)(A)

Pursuant to Local Rule 5(g)(1)(A), the Parties met and conferred on July 24, 2023 to discuss the confidentiality designation for Exhibit 13. The Parties conferred via a Zoom conference and the conference was attended by Schuyler Ufkes, Edelson PC and Sam Jackson, Carney Bates & Pulliam, PLLC for Plaintiffs, and Ryan Spear and Mylan Traylor, Perkins Coie LLP, for Defendant. At the meet and confer, the Parties discussed the possibility that Mr. Simmons' deposition testimony could be de-designated or redacted pursuant to the protective order, but determined that these solutions were currently unworkable given that Mr. Simmons' deposition concluded only six (6) days ago, the parties have only received the rough transcript (not the official transcript), and the agreed-upon provision in the protective order granting Defendant twenty-one (21) days to review the testimony and designate specific excerpts as confidential. Defendant will continue reviewing the deposition testimony and, if applicable, identify which portions could be de-designated when it files its response to this motion to seal, as contemplated by the Court's Local Rules.

CONFIDENTIALITY DESIGNATION

Plaintiffs filed their First Amended Complaint against Amazon Web Services, Inc. ("AWS") for alleged violations of the Illinois Biometric Information Privacy Act. *See* Dkt. No. 44. After engaging in discovery, Plaintiffs' position is that the parties have reached an impasse,

1 and Plaintiffs intend to file their Motion to Compel Defendant's Responses to First Set of
 2 Interrogatories and Requests for Production and Certain Rule 30(b)(6) Testimony. Attached as
 3 Exhibit 13 to Plaintiffs' Motion to Compel is the rough transcript of Sean Simmons, which,
 4 pursuant to the protective order entered in this case, has been designated as "HIGHLY
 5 CONFIDENTIAL – ATTORNEYS' EYES ONLY" by Defendant. As required by the protective
 6 order, the Parties hereby stipulate to file said exhibit under seal.

7 The Court entered a protective order pursuant to Local Rule 26(c) for the security of
 8 sensitive materials. *See* Dkt. No. 55. Pursuant to the protective order, the deposition testimony
 9 "shall be treated as if it has been designated 'HIGHLY CONFIDENTIAL – ATTORNEY'S
 10 EYES ONLY' in its entirety, unless otherwise agreed." *See* Dkt. No. 55 § 6.2(b). Also, to the
 11 extent testimony from the deposition is quoted within Plaintiff's Motion to Compel, Plaintiffs
 12 redacted the quotations, but are prepared to submit unredacted copies of their Motion to Compel
 13 in the event the Court denies the Motion to Seal.

14 The Court's local rules note that "[t]here is a strong presumption of public access to the
 15 court's files." *See* LCR 5(g). Under the local rules, "[w]here the parties have entered
 16 a...stipulated protective order...governing the exchange in discovery of documents that a party
 17 deems confidential, a party wishing to file a confidential document it obtained from another
 18 party in discovery may file a motion to seal but need not satisfy subpart (3)(B) []. Instead, the
 19 party who designated the document confidential must satisfy subpart (3)(B) in its response to the
 20 motion to seal or in a stipulated motion." *See* W.D. Wash. Local Rules 5(g)(3)(B).

21 Here, Plaintiffs wish to file a document which Defendant has designated as confidential.
 22 The testimony at issue was elicited less than twenty-one (21) days ago, and the Parties agree that
 23 Defendant's opportunity to review and designate excerpts as confidential continues. Plaintiffs
 24 reserve their right to move to de-designate any excerpts of the testimony Defendant designates as
 25 confidential.

26 **IT IS SO STIPULATED** (*subject to Court Order*).

1 Dated: July 24, 2023

CARSON NOEL PLLC

2 By: /s/ Wright A. Noel

3 *Attorney for Plaintiffs*

4 I certify that this memorandum contains 661 words,
5 in compliance with the Local Civil Rules.

6
7 Dated: July 24, 2023

PERKINS COIE LLP

8 By: /s/ Ryan Spear

9 *Attorney for Defendant*

ORDER

PURSUANT TO STIPULATION, IT IS HEREBY ORDERED:

The Parties' Stipulated Motion to Seal is GRANTED. The Clerk shall maintain the redactions present in Plaintiffs' Motion to Compel and seal Exhibit 13 and the accompanying unredacted Plaintiff's Motion to Compel.

Dated: July 25, 2023.



Hon. John H. Chun

United States District Judge